



U.S. Citizenship and Immigration Services

Questions and Answers

USCIS Asylum Division Quarterly Stakeholder Meeting

Friday, November 4, 2016

Tomich Center

111 Massachusetts Avenue, NW

Washington, D.C. 20001

2:00 pm – 4:00 pm EDT

I. Welcome, Introductions, and Presentations

II. Asylum Division Updates

a. Personnel Updates

- I. Antonio Donis is no longer the Sub-Office Director at the New Orleans office.

b. Office Moves

- I. The Asylum Pre-Screening Center (ZAC) has relocated to 1525 Wilson Boulevard, Suite 300, Mail Stop 2500, Arlington, Virginia, 20598-2500.

c. Training Dates

RAIO CT/ADOTC #18 and #19 (concurrent classes) / ADOTC #19 (single class):

August 1 – September 28, 2016

Trained: 13 Refugee Officers, 5 International Operations Officers, and 41 Asylum Officers

RAIO CT #20 and #21 (concurrent classes) / ADOTC #20 (single class):

September 19 – November 18, 2016

Training: 25 Refugee Officers, 7 RAD Detailees from other USCIS Components, and 34 Asylum Officers

d. Regularly Provided Statistics (posted on [USCIS.Gov](http://uscis.gov))

Affirmative Asylum Statistics (July 2016 – September 2016)

NACARA Statistics (June 1999 – September 2016)

Credible Fear and Reasonable Fear Statistics and Nationality Reports (July 2016 – September 2016)

Unaccompanied Alien Children Statistics (October 2015 – September 2016)

As a reminder, we started publishing the regularly provided statistics on the USCIS.gov website before the quarterly engagement so you can review them prior to the meeting and print a copy if you so choose.

III. Backlogs

- a. **The increase in credible fear (CF) and reasonable fear (RF) interviews has required asylum officers to be detailed to the border and detention centers to conduct these interviews, pulling them away from conducting affirmative asylum interviews, and resulting in significant backlogs in the affirmative asylum process. Although the USCIS Asylum Division has made efforts to reduce the backlog, it persists. While the statute requires interviews within 45 days of receipt absent exceptional circumstances, interviews now regularly take place 3-4 years after receipt.**

These backlogs cause a number of problems for asylum-seekers and their families. For example, the delays can cause prolonged trauma and a sense of statelessness, can lead to long periods of time before asylum-seekers can bring their family members out of danger, and can trigger mental health problems, which may create barriers to sustainable employment, education, and integration into U.S. society. The backlogs can also mean that there is stale corroborating evidence for supporting applicants' asylum claims, loss of witnesses to support their claims, and fading memories, leading to unnecessary questions of credibility.

Is there anything attorneys can do to prevent their cases from being placed in the backlog? What further efforts can be made by USCIS to reduce this backlog in a meaningful way and how might AILA be of assistance in those efforts?

From: Dawn C. Sequeira, Founder & Principal Attorney, 10411 Motor City Drive, Suite 750, Bethesda, MD 20817, Phone: Office: 301.529.1912, Mobile: 301.787.8631; Email: dawn@legacyimmigrationattorney.com

and

From: Laura A. Lynch, Esq., Liaison Associate, Phone: 202.507.7627, Email: llynch@aila.org, American Immigration Lawyers Association, Phone: 202.507.7600, Address: 1331 G Street NW, Suite 300, Washington, DC 20005

Response:

There is nothing that an attorney can do at this time to prevent their case from being initially placed into the backlog. USCIS continues to provide additional resources (both budgetary and personnel) to the Asylum Division in response to the increased applications. As many of you may already be aware, the Asylum Division hired and trained a record

number of asylum officers during the last two fiscal years, doubling our on-board asylum officer staff since FY 2013 to over 500 officers. We have established three new sub-offices to further expand our adjudicative capacity. Similarly, USCIS has increased the amount of money budgeted to the Asylum Division by just over 55% since FY 2013. Despite this considerable investment of resources, increases in applications have outpaced our growth. The number of credible fear referrals received in FY 2016 was almost double the very high number received in FY 2015 and affirmative asylum filings increased by 35% over the previous year, topping over 100,000 new receipts for the first time in 20 years. Because we were staffing the credible fear/reasonable fear workload and overseas refugee details in support of the Refugee Affairs Division, two major Departmental priorities, there were once again insufficient resources available to allocate to the affirmative asylum workload. In FY 2017, the Asylum Division will increase its adjudicative capacity through recently-approved additional staffing enhancements as well as a decreased reliance on Asylum Division personnel for overseas refugee details as the Refugee Affairs Division onboards and trains new officers throughout the fiscal year. The Asylum Division is also examining ways to make internal case processing more efficient while continuing to prioritize the quality of each adjudication.

During FY2016, over 20% of the new filings from applicants (who were not unaccompanied minors filing affirmative applications with us under the TVPRA) were submitted by applicants who claimed to have entered the U.S. at least 10 years prior to the filing of their asylum applications. We received over 20,000 applications from such individuals and their families. The overwhelming majority of these cases are not putting forward significant claims for exceptions to the one-year filing deadline, nor are they attempting to put forward individualized claims for asylum. Instead, they appear to be applying simply to get work authorization and placement into removal proceedings in order to seek cancellation of removal. Frankly, this is an abuse of the U.S. Asylum Program's mission of humanitarian protection. These applications further prevent us from interviewing and adjudicating legitimate asylum claims in a timely manner. In terms of what might be done to meaningfully assist with the backlog reduction, any steps that the advocacy community can take to deter or dissuade preparers from abusing and undermining the integrity of the Asylum Program in this manner would be of great assistance.

- b. **The USCIS Asylum Division has previously attempted to address the issue of family members who remain in danger by proposing the option of “interview expedite requests” or “short notice lists.” However, these remedies have not been applied consistently across the asylum offices and have not solved the problem.**

Would USCIS consider expediting cases where family members remain in danger and establishing uniform procedures for the submission and consideration of such requests?

From: Laura A. Lynch, Esq., Liaison Associate, Phone: 202.507.7627, Email: llynch@aila.org., American Immigration Lawyers Association, Phone: 202.507.7600, Address: 1331 G Street NW, Suite 300, Washington, DC 20005

Response:

All asylum offices accept requests to expedite the scheduling of asylum interviews and they all consider danger to family members in the country of feared persecution as well as extenuating medical conditions of the applicant as primary factors in determining whether to grant the request. Differences amongst the approvals of such varied requests as well as the timeliness of expedited or “short-list” interviews across the offices reflect the differing caseload demands and the varying availability of resources to apply to expedited case processing.

IV. Employment Authorization Documents (EADs) and Form I-765

- a. **As a follow-up to the August Stakeholder’s Meeting, can USCIS automatically issue work authorization cards to minors with Temporary Protected Status (TPS) for administrative identity purposes to enable persons to file taxes appropriately and obtain health insurance for their children? Currently, you must make an individual request, and depending on circumstances, the reviewing officer, may or may not issue.**

From: Yolanda C. Rondon, Esq., ADC Staff Attorney, American-Arab Anti-Discrimination Committee; Phone: 202-244-2990; Email: yrondon@adc.org

Response:

We do not automatically issue EADs based upon a pending or approved TPS application. Individuals must follow the Form I-765 instructions if they wish to obtain an EAD related to a TPS form (I-821). Specific instructions for TPS EAD categories (c)(19) and (a)(12) are found on pg. 2 of the I-765 instructions. Please contact USCIS’ Service Center Operations Directorate for more information about how USCIS adjudicates Form I-765s.

- b. **With the large delays at the asylum office and EAD adjudications, are there any thoughts of making EADs last for more than one year? Or any progress on proposals to make a receipt proof of work eligibility while a renewal is pending?**

From: Kelly AuBuchon, Senior Attorney, 2630 W. Lafayette Blvd., Detroit, MI 48216, Phone: (313) 964-4320 ext. 15, (313) 963-1077 (fax); Email: FreedomHouseDetroit.org

Response:

Effective October 5, 2016, USCIS increased the validity period for initial and renewal Employment Authorization Documents for asylum applicants from one year to two years. Applicants with pending asylum applications file Form I-765, Application for Employment Authorization, under category (c)(8). This change in validity period applies to all (c)(8)-based applications that are pending as of October 5, 2016 and to all such applications filed on or after October 5, 2016.

- c. **We continue to express our concern over the delay in employment authorization processing. Given the 4 to 5-month actual processing time of I-765s for even renewals of (c)(8) employment authorization for pending asylum applicants, is it possible to file the I-765 farther in advance of the 90 days and ensure that it won't be rejected or processed as a replacement? Some clients would rather run the risk of overlapping cards and effectively shortening the time they have the new card than being without a work permit for 1 to 2 months and losing their jobs. Is there anything being done to improve the processing times for EAD issuances and renewals?**

From: Denise Hunter, Staff Attorney, Whitman-Walker Health, Address: 1701 14th Street NW, Washington, DC 20009, Phone: Tel: 202-797-4414, Email: dhunter@whitman-walker.org

Response: As mentioned previously, USCIS has increased the validity period for initial and renewal EADs for asylum applicants from one year to two years. Currently, USCIS recommends that an EAD renewal applicant file no more than 120 day before his/her current EAD expires in order to avoid receiving EADs with overlapping dates and earlier expiration dates than desired. The filing guidance on the website is an attempt to reduce the number of applicants who receive a shortened EAD validity period. It is not an absolute cut-off date.

V. Interpreters

- a. **I would like to request clarification regarding the use of interpreters for credible fear interviews. We've had some applicants (unrepresented at the time of the credible fear) express concern over their understanding of an officer's questions, specifically the translation of questions and responses provided by interpreters, and others who feel that the transcript of the interview did not accurately reflect their answers. It would be helpful to have a better understanding of how interpreters are assigned, what rights the applicants are informed they have (if any) regarding the use of an interpreter, and what options applicants have if they are unrepresented and have a concern about the translation or transcription of their interview.**

I understand that in many instances, by the time someone reaches out to our office to convey concern about such an issue, it may be too late for anything to be done. It would be helpful to have an early understanding of the issue.

From: Vicki Ger, Immigration Counsel, U.S. Senator Kirsten Gillibrand, Telephone: (212) 909-0488, Email: vicki_ger@gillibrand.senate.gov

Response:

All telephonic interpreters are professionals, rigorously vetted, and hired by professional interpretation services that contract with USCIS. All interpreters must speak and read English fluently, as well as the language(s) that he or she is contracted to interpret. Language

vendors must develop and maintain a Quality Control Plan (QCP) which outlines the systems and activities the vendor will implement to ensure that all services are provided in accordance with the contract. This QCP must establish internal quality control, inspection, and feedback systems for all services; it must provide the means to identify deficiencies in the services and provide procedures to correct deficiencies and prevent recurrences. The QCP must include (at a minimum) methods to train, test, evaluate, and certify language specialists. Vendors also provide training on the procedures and terminology specific to USCIS operations and services, as well as training on the procedures and vernacular specific to asylum, CF, and RF interviews. The QCP must also track timeliness and performance measures as they relate to responsiveness and quality of service. Each language vendor submits a quarterly report detailing the actions taken, status, and progress in implementing the QCP.

Any concerns or complaints about an interpreter should be raised with the asylum personnel or office responsible for adjudicating that case. This information will then be forwarded to HQ Asylum for appropriate follow-up. If it is determined by the Asylum Division that an interpreter is not fluent, is careless, or otherwise objectionable, we can require that the individual interpreter be removed from the contract or allow the vendor to take corrective action to address the problem.

The credible or reasonable fear orientations explain the individual's rights to an interpreter. For example, if the individual doesn't speak English or prefers to be interviewed in his or her native language, USCIS will provide an interpreter for the interview. The interpreter is instructed to keep all information about the interview confidential. The individual is instructed that if the interpreter is not translating correctly or if the individual doesn't feel comfortable, the individual can request a different interpreter. The individual may also request an interpreter of the gender of choice if it would make it easier for the individual to testify to sensitive details about the claim.

At the beginning of each interview, the interpreter reads an introduction to the individual which states in part "[i]t is important that we understand each other. If at any time I make a statement that you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain." In addition, the interpreter is placed under a sworn oath which includes the promise to "truthfully, literally, and fully interpret the questions asked by the asylum officer and the answers given by the applicant; [and to not] add to, delete from, comment on or otherwise change the matter to be interpreted."

All individuals should bring any interpretation problems to the attention of the asylum officer during the interview or after the interview to the best of their abilities. The asylum officer notes are not intended to be a strict word-for-word transcript of the interview.

Additionally, asylum officers receive extensive training on working with interpreters. They are trained to spot indicators of misinterpretation during interviews. Asylum officers are responsible for looking for signs of inaccurate, incomplete, inadequate, or biased interpretation by interpreters, and for addressing these problems if they occur.

VI. Adding Derivative(s) after the Principal has Already Filed Form I-589

- a. **Can you please confirm the procedure for adding derivatives after the principal has already filed their I-589 (Examples would be an after-acquired spouse and/or family members that enter the U.S. subsequent to principal's filing, etc.)? We have had problems with the Texas Service Center not processing these applications per the instructions in the Affirmative Asylum Procedures Manual. In addition, clients are not getting biometrics, which also affects their ability to file for employment authorization. We have been neither successful in getting the local asylum office to process any follow up nor getting NCSC to provide any meaningful information. This sometimes results in conflicting information. Is there a particular contact or procedure for follow up on these particular issues with the Texas Service Center beyond the NCSC contact process?**

Similarly, is there a procedure for following up with TSC on asylum filing receipt and rejection issues in a timely manner? We have been unable to get information in a timely manner regarding I-589s that we later learn were not accepted, but were never returned to the G-28 attorney of record or applicant for resubmission. By the time we are able to receive any meaningful response to identify the filing deficiency or elevate the concern (after contacting NCSC, the Lockbox email, TSC, Ombudsman, etc.), we are told it's too late resubmit and get the initial filing date for one-year filing deadline and employment authorization purposes. Note that we started contacting USCIS 30 days after no receipt but it took several weeks for USCIS to respond. Is there a contact or process to address these types of lockbox processing issues for TSC?

From: Denise Hunter, Staff Attorney, Whitman-Walker Health, Address: 1701 14th Street NW, Washington, DC 20009, Phone: Tel: 202-797-4414, Email: dhunter@whitman-walker.org

Response:

The Asylum Division contacted the TSC about the procedures in the Affirmative Asylum Procedures Manual (AAPM). The TSC has a procedure for adding derivatives after the principal has already filed their I-589 application. The current procedures for adding a dependent after the filing of the I-589 are found in section III.E.I of the AAPM. If the applicant wishes to add a dependent after filing but before asylum interview (and the dependent did not previously file an I-589), the principal files with the service center with jurisdiction over his address. If the dependent previously filed an affirmative asylum application as a principal applicant, the service center forwards the I-589 to the asylum office with jurisdiction over the address, if an attempt to file is made with the service center.

Please provide specific examples and which asylum office you were unsuccessful with. The TSC does not have a separate contact process aside from calling the NCSC or contacting them by mail. The TSC recommends that applicants submit inquiries through the NCSC using the SRMT process. Typically, USCIS offices respond to SRMTs within 15 days of

receipt. The TSC is current on SRMT responses, meaning there isn't a back log of inquiries in the system that would result in extended response times.

We are looking into your concerns regarding late receipting and rejections of I-589s by the service centers. Please provide specific examples that we can share with the service centers.

VII. Advisals to all Individuals After Positive Credible and Reasonable Fear Screening Determinations

- a. **Following passage of a credible or reasonable fear interview, many unrepresented asylum-seekers believe that they have already applied for asylum and do not understand that there are still additional steps required to complete the application, including submission of Form I-589 within one year of entry, and an appearance before the Immigration Judge. The AILA Asylum and Refugee Committee has requested that the Asylum Division provide written advisals to asylum-seekers to clarify these requirements and that the advisals be distributed as the first page in the packet of forms provided to asylum seekers following passage of a credible or reasonable fear interview in the language that the applicant indicates they speak fluently. At the Asylum Division's suggestion, AILA provided sample language for these advisals.**

In April 2016, the AILA National Asylum and Refugee Liaison Committee submitted to Asylum Division Chief John Lafferty suggested advisals to be given to all individuals who pass credible fear interviews. These advisals include critically important information about the one-year deadline to file the Form I-589 with an immigration court, among other important steps for asylum seekers to take. At the April 2016 quarterly stakeholders meeting, Ted Kim informed the group upon his completion of review that USCIS would take the distribution of these advisals into consideration and get back to us.

Also, at previous meetings John Lafferty stated that the asylum division was very open and willing to put in place such critically important advisals so we hope to see progress on this issue. These advisals remain very important in light of EOIR's announced policy change on 9/14/16 to now accept I-589 filings at the EOIR Court Clerks' windows.

Can you update us on the status of these advisals? Will USCIS agree to prepare and distribute written advisals to provide this information to asylum seekers following a positive RFI or CFI finding?

From: Laura A. Lynch, Esq., Liaison Associate, Phone: 202.507.7627, Email: llynch@aila.org, American Immigration Lawyers Association, Phone: 202.507.7600, Address: 1331 G Street NW, Suite 300, Washington, DC 20005

Response:

Thank you for providing sample language. Due to ongoing litigation on the one-year filing issue for people who have been placed into removal proceedings, we are unable to provide additional comments at this time.

VIII. **Request to Take Attached Materials on MS-13 and MS-18 Gangs into Account**

- a. **Since May 2015, AILA members have been asking the asylum office to take notice of several detailed declarations from country conditions experts on Guatemala, Honduras, and El Salvador on the politicized nature of the MS-13 and MS-18 gangs. These declarations provide relevant and important contextual information that qualify as “such other facts” under INA §235(b)(1)(B)(v). AILA members, led by Stephen Manning, previously requested that these materials be made “known” to the asylum officers working at the Dilley and Karnes detention centers. See INA §235(b)(1)(B)(v) (requiring credible fear of persecution determination to be made based in part on “such other facts as are known to the officer[.]”). AILA’s Asylum and Refugee Committee believes that if the asylum office works with advocates to take materials like these into account in making credible and reasonable fear determinations, the system could be more efficient for both advocates and asylum officers. AILA would welcome the opportunity to work with the asylum office to develop a standard set of materials, which we believe could include other declarations, immigration judge decisions, and other useful information related to important contextual “other facts.” AILA followed up on this issue by email on July 28, 2016, in advance of the August stakeholders meeting, but has not received a response.**

From: Laura A. Lynch, Esq., Liaison Associate, Phone: 202.507.7627, Email: llynch@aila.org, American Immigration Lawyers Association, Phone: 202.507.7600, Address: 1331 G Street NW, Suite 300, Washington, DC 20005

Response:

At this time, the RAIO Research Unit has the responsibility under 8 CFR 208.1(b) to work with the Department of State and other appropriate sources to compile and disseminate relevant country conditions information to asylum officers for asylum and credible/reasonable fear screening determinations. The documents previously put forward as part of a request to share the documents with all asylum officers were recently shared with the RAIO Research Unit. The Research Unit will review and consider whether they are appropriate for posting on the site they maintain for RAIO staff, including asylum officers, on relevant conditions in countries of particular interest to the work done by the Asylum Division and the rest of USCIS. The Research Unit is led by its director, Roy Potts, and Roy has indicated that he would be happy to meet and discuss ideas related to the development and sharing of appropriate country conditions documentation. If AILA is interested, please let me [John Lafferty] know and I will work with Roy to arrange a meeting.

IX. **Hiring Announcements for USCIS Asylum Officers**

- a. **For a number of years, AILA members have observed incredibly short turnaround times for hiring announcements for asylum officers. Can you explain the process and how this is being addressed? For example, an announcement is sometimes only released around 3pm on a Friday afternoon for a position closing the following Monday. Why is this necessary and how can these positions be better publicized and how can access to applying be broadened?**

Response:

The Asylum Division coordinates its job announcements with USCIS' Human Resources Operations Center (HROC). HROC is the primary entity responsible for administering the agency's hiring and recruitment functions, among other areas of responsibility. Public Job Notices (PJN) are utilized by federal agencies to inform job seekers when, where, and how to apply for a federal job. These are required whenever an agency seeks to hire applicants from outside the federal workforce for competitive service positions. According to OPM, all competitive service vacancy announcements must be listed on the USAJOBS database. The measure that it uses to determine the length of time that a job announcement is open is made after considering a number of factors including the number and types of jobs needed to be filled, labor market conditions, and recent experience filling similar positions.

Since 2012, there have been 6 national PJNs, each of which was open for five days. These PJNs receive more than enough candidates to fill its vacancies. For example, for these last 6 national recruitments, 2,199 applications were received. 1,784 of those individuals were determined eligible and the 246 of the strongest candidates were referred to the selecting officials for further consideration by HROC. Local asylum offices routinely share these announcements as soon as they are posted with their local points of contact including non-profits, law clinics, and immigration networks. If an entity is interested in being included in this email blast and is not currently receiving this information, please reach out to the local asylum office. In the past year, the Asylum Division also started posting links to these announcements on the USCIS Facebook and Twitter pages.

- b. **For how many asylum officer positions will you have funding to comply with your FY 2017 budget? Will next year's budget allow for growth beyond the 533 previously funded positions? If so, by how many?**

Response:

A final decision regarding the number of asylum officers for FY 2017 has not yet been made. The Asylum Division received approval to increase its payroll in FY 2017. The Asylum Division is currently evaluating its space capacity, as well as its training capacity in FY 2017. Based upon these factors, it is anticipated that the number of asylum officers will increase by at least 70 positions. Growth in other mission critical positions is also anticipated, including supervisory asylum officers, training officers, and other case productive personnel who are essential to case processing.

- c. **How many refugee resettlement details are you required to fill with asylum officers in FY 2017? How many total asylum officers will be lost to the Refugee Corps in 2017?**

From: Lindsay M. Harris, Assistant Professor of Law, Immigration and Human Rights Clinic, University of the District of Columbia, David A. Clarke School of Law, 4200 Connecticut Avenue NW, Bldg. 52, Washington, DC 20008. Email: lindsay.harris@udc.edu

Response:

The Refugee Affairs Division is still working with the Department of State and other partners to plan for the FY 2017 circuit ride needs. At present, we anticipate that the number of detailees needed to support overseas refugee processing will increase from the 200 details needed from the Asylum Division in FY 2016. 200 asylum officer TDYs amount to approximately 60-65 asylum officer full-time employees. For instance, from January through March 2017, the Asylum Division is expecting to provide up to 130 detailees to conduct overseas refugee processing.

- d. **How many asylum officers do you currently have on staff? How many are fully occupied by CF/RF interviews?**

From Lindsay M. Harris, Assistant Professor of Law, Immigration and Human Rights Clinic, University of the District of Columbia, David A. Clarke School of Law, 4200 Connecticut Avenue, NW, Building 52, Washington, DC 20008. Email: Lindsay.harris@uds.edu

Response:

The Asylum Division is currently authorized to have 533 asylum officers. As of the end of pay period 20 (10/15/16), we have 499 officers onboard (93.6%). While workload assignments change daily on the ground depending upon the caseloads of each office and the varying availability of resources to apply to expedited case processing, the Asylum Division plans that approximately 40% of its workforce is dedicated to credible fear and reasonable fear cases over the course of the year.

- e. **Can you provide an update on the new sub-office in Virginia? Has the new office resulted in any progress on affirmative application interviews in the Arlington, VA office? Has the new sub-office begun handling CF/RF interviews for the Los Angeles office?**

From: B. Shaw Drake, Equal Justice Works Fellow, Refugee Protection, Sponsored by Morgan Stanley and Simpson Thacher & Bartlett LLP, Human Rights First, American ideals, Universal values, Phone: 646.595.1054, Email: DrakeS@humanrightsfirst.org

Response:

The Asylum Division established the Asylum Pre-Screening Center (ZAC) in November 2015 to focus on conducting credible/reasonable fear screening interviews outside of the local office's jurisdiction. The office is presently allocated 61 asylum officer positions and a complementary supervisory staff and operations team. As nearly all of the asylum officers who joined ZAC were new to the Asylum Division, they were required to complete Asylum Division training prior to adjudicating. The first officers completed training in April 2016. ZAC currently has 93% of its asylum officers onboard and a majority of these officers have completed the requisite training.

While in the process of starting the office, ZAC was still able to contribute significantly by offering assistance to offices in Houston, Newark, and Los Angeles. Additionally, ZAC also sent a large number of officers to support Houston Asylum Office's (ZHN) in-person processing at the Family Residential Centers (FRCs).

In FY 2017, ZAC will focus on developing and implementing a plan to take over portions of caseloads from other offices on a permanent basis as well as examining what type of support is needed for the other offices. The office will begin to conduct reasonable fear interviews for other asylum offices as more ZAC officers are trained in reasonable fear. ZAC will also remain committed to helping ZHN as that office continues to receive unprecedented levels of APSO receipts. ZAR will continue to adjudicate its local receipts by rotating asylum officers to ZAC so that ZAC officers can focus their support on APSO adjudications outside of its local jurisdiction.

X. Eritrean Asylum Applicants at the Mexican Border

- a. **What interpreting services are made available to Eritrean asylum seekers at the Mexican border (or elsewhere in the US), and can we assist in enhancing them in the event of any gaps?**

Response:

CBP and ICE use staff with language capabilities or contract interpreter services. The Asylum Division uses contract interpreter services such as Lionbridge and TransPerfect. They recruit and hire regularly. The DOJ/EOIR immigration courts also use contract interpreter services.

- b. **What specific legal resources are Eritrean asylum seekers notified of at the Mexican border (or elsewhere in the US) during the early stages of detention and processing?**

From: Mike Slotznick, Counsel, The America Team for Displaced Eritreans, email: mslotznick@comcast.net; Phone: (484) 887 0497; www.EritreanRefugees.org

Response:

Please contact CBP and ICE for specific information. If an individual requests asylum or expresses a fear of return, the individual is given a list of free/low cost legal services providers. The individual is also given an M-444 notice, Information about Credible Fear Interview, which explains the credible fear process and the right to an attorney at no cost to the U.S. Government.

XI. One Year Filing Deadline for Asylum Seekers

- a. **The federal regulations and the asylum officer training materials provide numerous examples of changed and/or extraordinary circumstance exceptions to the rule that asylum seekers file applications within one year of entry. The training materials contemplate that a reasonable period for filing an application following the changed and/or extraordinary circumstance can be, depending on the factual circumstances, more than the presumptive six-month period.**

AILA members report that, in at least one asylum office, the asylum officers are carefully and thoroughly considering evidence establishing an exception to the one-year rule. However, in most other asylum office jurisdictions, practitioners report that officers do not meaningfully consider evidence of changed and/or extraordinary circumstances, but instead routinely refer applications filed outside the one-year period. This also seems to be true when the applicant is unrepresented. Practitioners report that in many of these cases, immigration judges ultimately find that changed and/or extraordinary circumstances have been demonstrated and grant asylum.

AILA believes that a more thorough review of potential exceptions to the one-year filing rule and, in some cases, requests by asylum officers for additional evidence relating to these exceptions, would ultimately preserve administrative resources by decreasing the immigration courts' caseload.

Will USCIS commit to distributing additional training and guidance on exceptions to the one-year deadline to 1) ensure that asylum officers appropriately exercise authority to grant cases that meet the exceptions to the one-year rule, and 2) ensure that the law and training is applied uniformly throughout the country?

From: Laura A. Lynch, Esq., Liaison Associate, Phone: 202.507.7627, Email: llynch@aila.org., American Immigration Lawyers Association, Phone: 202.507.7600, Address: 1331 G Street NW, Suite 300, Washington, DC 20005

Response:

The Asylum Division continues to provide comprehensive training on the application of the one-year filing deadline and its exceptions, including lessons taught at the Asylum Division Officer Trainings. Supervisors review 100% of all asylum decisions, including cases referred

or denied on the one-year filing deadline. Asylum officers are instructed to be flexible and inclusive in examining changed and/or extraordinary circumstances if credible testimony or documentary evidence relating to an exception exists. They are also instructed that what constitutes a reasonable period of time to file following a changed and/or extraordinary circumstance depends upon the facts of the case. There is no presumptive 6-month period of reasonable delay in every case. Instead, asylum officers consider an applicant's education and level of sophistication, the amount of time it takes to obtain legal assistance, any effects of persecution and/or illness, when the applicant became aware of any changed circumstance, and any other relevant factors.

We will forward to our offices AILA's concerns about inconsistency of application. It could be helpful to receive some particularly illustrative case examples that clearly demonstrate any such claimed inconsistencies in the application of the one-year filing deadline.

- b. **In a removal case, if an individual who is a respondent for asylum has initial master I.5 years after the date of entry, generally we would lodge the I-589 prior to the one year deadline to preserve the one year issue, and then file the I-589 on the Master hearing date. However, what if the respondent's file was not transferred to the court from the detention facility due to backlog issues in the court for over a year? My understanding is that if the court does not have the respondent's file in their court system, the clerk would not stamp the application as lodged. In another words, if the file is "in transit" for over a year, how can we preserve the one year issue should the clerk refuse to lodge the file because the file is not in the court system?**

From: Ling Li, Attorney at Law, Law Offices of Ling Li, P.C., 43 East Broadway, #501A, New York, NY 10002, Phone: 212-566-2064, Fax: 212-566-2074, Email: liling.esq@gmail.com

Response:

Due to ongoing litigation on the one-year filing issue for people who have been placed into removal proceedings, we are unable to provide additional comments at this time.

XII. Requests for Reconsideration of Negative CFI/RFI Determinations

- a. **AILA members report that asylum offices routinely refuse to reconsider negative CFI/RFI determinations prior to review by EOIR. Often the request for reconsideration with the assistance of counsel identifies potential officer errors or due process violations. Because the backlog for substantive review before an Immigration Judge is significant, establishing policy guidance that notes the benefits of reconsideration and encourages substantive determinations will conserve resources both for USCIS and EOIR, and provide more timely relief to vulnerable asylum applicants deserving of relief. Will USCIS prepare and distribute policy guidance discouraging summary denials of motions to reconsider and encourage substantive review in appropriate cases?**

From: Laura A. Lynch, Esq., Liaison Associate, Phone: 202.507.7627, Email: llynch@aila.org., American Immigration Lawyers Association, Phone: 202.507.7600, Address: 1331 G Street NW, Suite 300, Washington, DC 20005

Response:

USCIS has no plans to prepare and distribute policy guidance to discourage summary denials of motions to reconsider and encourage substantive review in appropriate cases. USCIS credible fear and reasonable fear determinations are not subject to motions to reopen or reconsider. Governing regulations state that an applicant who wants to challenge a USCIS credible fear or reasonable fear screening should seek review of that screening determination from an immigration judge. The limited review must be conducted no later than 7 days after the date the negative determination was issued.